

OPINION NO. 70-027**Syllabus:**

A patrolman of a non-charter municipality is eligible for promotion upon successful examination if he has more than one year of total service in the next lower rank, where such service is not consecutive and the most recent service is for less than a twelve-month period.

To: Roger Cloud, Auditor of State, Columbus, Ohio
By: Paul W. Brown, Attorney General, March 6, 1970

I have before me your request for my opinion concerning an interpretation of Section 143.34, Revised Code. More specifically, you ask, in essence, whether or not a patrolman of a non-charter municipality is eligible for promotion upon successful examination if he has more than one year of total service where such service is not consecutive, the most recent consisting of less than twelve months.

Section 143.34, Revised Code, reads in pertinent part:

"* * * Promotion shall be by successive ranks so far as practicable, and no person in a police department shall be promoted to a position in a higher rank who has not served at least twelve months in the next lower rank.
* * *"

Upon perusal of Section 143.34, Revised Code, other related Revised Code provisions, and applicable case law, I can find no requirement that a police officer of a non-charter municipality must serve as a patrolman consecutively for the twelve most recent months to be eligible for promotion. Section 143.34, supra, requires only that twelve months be served in the next lower rank

before promotion. Implicit in the first sentence of the above-quoted portion of Section 143.34, supra, is the legislative understanding that promotions would not always be effectuated by advancing a single rank. A limitation upon a possible double-rank promotion is that the officer involved will have served at least twelve months in the next lower rank to the position of promotion. Obviously, in a double rank promotion this twelve-month service will not have been in the most recent twelve-month period. Moreover, there are a multitude of conceivable situations where such twelve-month service, for good reason, may not have been consecutive. Imposing the requirement upon a patrolman eligible for promotion that his mandatory twelve-month service be consecutive and within the most recent twelve-month period would be a harsh and unintended result of the language of Section 143.34, supra.

Therefore, it is my opinion and you are advised that a patrolman of a non-charter municipality is eligible for promotion upon successful examination if he has more than one year of total service in the next lower rank, where such service is not consecutive and the most recent service is for less than a twelve-month period.